

PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

REC'D 16 AUG 2004

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Applicant's or agent's file reference P22088PCAU	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No. PCT/AU2003/001543	International Filing Date (day/month/year) 18 November 2003	Priority Date (day/month/year) 18 November 2002
International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ A 23K 1/10, 1/18; A01K 5/01		
Applicant MARS, INCORPORATED et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 2 sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 24 May 2004	Date of completion of the report 6 August 2004
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer LEXIE PRESS Telephone No. (02) 6283 2677

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/AU2003/001543

I. Basis of the report**1. With regard to the elements of the international application:***

- ☐ the international application as originally filed.
- ☒ the description, pages 1-6 , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☒ the claims, pages , as originally filed,
pages , as amended (together with any statement) under Article 19,
pages , filed with the demand,
pages 7 & 8 , received on 30 July 2004 with the letter of 29 July 2004
- ☒ the drawings, pages 1 , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/AU2003/001543

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims 1-10	YES
	Claims -	NO
Inventive step (IS)	Claims 1-10	YES
	Claims -	NO
Industrial applicability (IA)	Claims 1-10	YES
	Claims -	NO

2. Citations and explanations (Rule 70.7)

The amendments submitted with the letter of 29 July 2004 do not add subject matter which goes beyond the disclosure of the International Application as filed and are taken into account in this report.

The present invention relates to a packaged pet food product that comprises two or more solid food components in a sauce or gel, wherein each solid food component is arranged in visually discrete groups within the single cavity of a relatively flat can or tray.

The following documents cited in the International Search Report have been considered for the basis of this report:

1 WO 1999/045794

2 WO 1998/005219

3 WO 1998/005218

Document 1 discloses a pet food product comprising at least two portions of food components arranged in two or more discrete phases. The arrangement consists of a tubular outer phase surrounding an inner phase, maintained in a tubular can. D1 does not disclose or suggest a product arranged in a relatively flat can or tray and therefore does not impact on the novelty or inventiveness of any of the claims.

Document 2 discloses a multi-layered pet food product comprising a base layer of solid food components in a gravy, and a discrete upper layer comprising a second food component filled into a conical or frusto-conical recess in the base layer, arranged in a tubular can. D2 does not disclose or suggest a product arranged in a relatively flat can or tray and therefore does not impact on the novelty or inventiveness of any of the claims.

Document 3 discloses a multi-layered pet food product comprising a discrete base layer made up of pieces of a first solid food component in a gravy, and a discrete upper layer comprising a second solid food component. D3 does not disclose or suggest a product arranged in a relatively flat can or tray and therefore does not impact on the novelty or inventiveness of any of the claims.

CLAIMS:

- 5 1. A packaged pet food product that includes two or more solid food components in a sauce or gel, wherein said solid food components are placed separately in a relatively flat can or tray having a single cavity for receiving pet food material, and wherein said solid food components are maintained in visually discrete groups within said cavity.
- 10 2. The pet food product of claim 1, wherein said can or tray has a width to depth ratio of at least 3:1.
3. The pet food product of any preceding claim, including a first solid food component that is a meat or meat analogue food product substantially derived from one or more materials selected from the group comprising bovines, ovines ,
15 porcines, poultry and fish; and one or more further solid food components selected from a group including vegetables, rice and pasta.
4. The pet food product of claim 3, wherein said solid components are surrounded by a sauce or gel serving to embed the meat pieces in a savoury matrix.
- 20 5. The pet food product of claim 4, wherein said gel or sauce contains flavouring agents.
6. The pet food product of claims 4 or 5, wherein said gel or sauce is substantially comprised of water and one or more materials selected from group comprising starch, vegetable gums and agar agar.
- 25 7. A method of producing a packaged pet food product, said package being a relatively flat can or tray, and having a single cavity for receiving pet food material, said method including the step of placing said solid food components separately in visually discrete groups within said cavity.

8. The method of claim 7, wherein said packaged pet food product conforms to any defined in claims 1 to 6.

9. A packaged pet food product substantially as described herein with reference to the example.

5 10. A method of preparing a packaged pet food product substantially as described herein with reference to the example.